

REMARKS

This response and clerical amendment is being filed as a response to the Final Office Action of February 27, 2006. This response is filed **within 2 months**, and therefore, the Applicant respectfully requests expedited consideration in accordance with the rules.

An interview was had with Examiner El Hady on April 19, 2006, however, no conclusion was reached. On April 25, 2006, Examiner El Hady contacted the undersigned to inform that he was no longer assigned to examine the present application. In the interview of April 19, 2006, a discussion was had regarding the substance of the rejections cited in the Final Office Action. For completeness and to enable the new Examiner to understand the Applicant's position, the following arguments represent the same substance discussed with Examiner El Hady.

Claims 1-24 and 26 were rejected under a non-statutory obviousness-type double patenting rejection, over allowed claims in Application No. 09/452,811. A terminal disclaimer is attached, which obviates this rejection.

Claim 1 was amended to correct the antecedent basis rejection. Accordingly, the 35 USC § 112, 2nd Paragraph rejection should be withdrawn.

Claims 19, 20 and 22 were rejected under 35 USC § 102(e) as being anticipated by Landsman et al. (6,314,451). The Examiner also rejected claims 19, 20, and 22 in the alternative under 35 USC § 103(a) as obvious over Landsman et al.

To provide the new Examiner with an overview, the Applicants will again restate the teachings of Landsman et al. Landsman et al. is concerned with pushing advertisements to the user **for later play**. (See Co. 6, line 23 and line 37). Based on a user's profile, specific ads are sent to the user and all are played. Fresh ad content is continually sent to the user at different times. Playback of the ads are taught to occur at a later time, such as when the user is not interacting with the system or shown as a screen saver. See col. 6. Because only specific ads are sent the user, there is no need to *identify specific portions* to play back to the user, as is claimed. Additionally, the playback for the user occurs during times of no

interaction. In the claimed invention, play of certain auxiliary content occurs **during download** of predetermined primary content. During download is not the same as "later", as taught by Landsman et al., and in fact is contradictory to what is claimed.

The Examiner also cited col. 4, lines 43-47 of Landsman et al., on page 4 of the Final Office Action. For completeness, the Applicants are reproducing the cited section as well as the following lines of col. 4 of Landsman et al., to provide the Examiner with proper context. On page 4 of the Final Office Action, the Examiner is asserting that col. 4, lines 43-47 teach the claimed limitation of "...specific portions of the auxiliary content stored in the local storage device is played by the client console *during download*..." The Applicant respectfully disagrees. Col. 4, starting at line 43 reads:

[1] Generally speaking and with specific reference to web advertising, **interstitial ads are displayed in an interval of time that occurs after a user has clicked on a hot-link displayed by a browser to retrieve a desired web page but before that browser has started rendering that page.** Such an interval, commonly referred to as an "interstitial", arises for the simple reason that a browser requires time, once a user clicks on a hotlink for a new page, to fetch a file(s) from a remote web server(s) for that particular page and then fully assemble and render that page. The length of an interstitial interval, which is quite variable, is governed by a variety of factors, including, e.g., a number of files required to fully render the new page and the size of each such file, and network and server congestion and attendant delays occurring when the user activated the hotlink.

In the next paragraph of Landsman et al., a definition is provided for "interstitial", and this definition further teaches the opposite of what is claimed. Note the following:

[2] Interstitial web advertising is taught in, e.g., U.S. Pat. Nos. 5,737,619 and 5,572,643 (both of which issued to D. H. Judson but on Apr. 7, 1998 and Nov. 5, 1996, respectively--hereinafter the "Judson" patents). The Judson patents disclose the concept of **embedding an advertisement, as an information object, in a web page file in such a manner that the object will remain hidden and not displayed when the file is executed to render the page. Rather than being displayed, the information object is locally cached by the browser during execution of the code for that page.** Then, during a transition initiated by user activation of a hotlink to move from that page to a next successive page, i.e., during an interstitial, the browser accesses the advertisement from local cache and displays it until such time as that next successive page is downloaded and rendered.

This teaching, when read in its full context, does not teach or suggest the claim language that states, in part, that specific portions of the auxiliary content stored in the local storage device is played by the client console *during download*. In fact, this section teaches that some advertisement is downloaded with the page, and the page is the main content. The

advertisement is not played, but is cached for later play, such as when the user clicks on another link to go to another website.

On page 4, Para.4, of the Final Office Action, the Examiner cites col. 10, lines 32-35, also for the proposition of teaching that "specific portions of the auxiliary content stored in the local storage device is played by the client console *during download*. Again, the Examiner is citing to the use of "interstitial downloading", which does not play during download, but caches for later play.

On page 9, Para.36, of the Final Office Action, the Examiner points to the hot link interstitial downloading teaching of Landsman et al., as well as citations to Rakavy and the Applicant's background (AAPA), spec. page 4, lines 6-9. The Applicant understand what is said in the background, and the citation to page 4, lines 6-9 does not support the Examiner's position. For this reason, the Examiner was contacted to inquire into the reasoning behind the citation to the Applicant's background. As a new Examiner is now assigned to this case, the Applicant's submit to the Examiner that the background fails to teach the claimed features of the independent claims either alone or in combination with the cited art, which was distinguished herein.

For at least these reasons, it is submitted that Landsman et al. fails to teach or suggest each element of the independent claims. Accordingly, the Examiner is respectfully requested to withdraw the rejection under Section 102 and 103 rejections.


As Landsman fails to teach each of the elements of the now pending claims, the Applicant submits that the teachings of Rakavy et al. (5,913,040) would not cure the deficiencies noted above. Accordingly, the Applicant submits that the pending claims are patentable and respectfully requests that the Section 103 rejection be withdrawn.

If the Examiner has any questions concerning the present amendment, the Examiner is kindly requested to contact the undersigned at (408) 749-6903. If any other fees are due in connection with filing this amendment, the Commissioner is also authorized to charge Deposit Account No. 50-0805 (Order No SONYP006). A duplicate copy of the transmittal is enclosed for this purpose.

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PATENT

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